

MINUTES

The **Rogers Planning Commission** met for a *regular session* in the Council Chambers of the Maurice H. Kolman Building on June 19, 2018 at 4:30 P.M. The meeting was called to order by Chairman Don Spann. Those in attendance were led in the Pledge of Allegiance.

Chairman Spann welcomed two new commissioners Rachel McLosky and Mike Malone.

MEMBERS PRESENT:

Commissioners Mike Malone, Rachel McLosky, Mark Myers, Tony Noblin, John Schmelzle, and Don Spann were present. Commissioner Dennis Ferguson arrived at 4:33 p.m. Commissioners Kevin Jensen and Eric Zvers were absent.

OTHER OFFICIALS PRESENT:

Community Development Director John McCurdy, Senior Staff Attorney Jennifer Waymack, Planning Administrator Lori Ericson, Planners Beth Treat and Ethan Hunter, Project Engineer Dylan Cobb, Deputy Fire Chief Bill Hyde, Fire Marshal Bill Rumsey, and Councilmembers Betsy Reithemeyer, Mark Kruger, and Jerry Carmichael

ACTION ON MINUTES:

(June 5, 2018)

Approved.

Motion by Myers, second by Noblin to approve the minutes of the June 5, 2018 as submitted

Voice vote: Unanimous - Yes. ***Motion carried.***

REPORTS FROM STAFF:

Planning Administrator Lori Ericson reported there was no staff reports, and welcomed the new commission members.

REPORTS OF BOARDS AND STANDING COMMITTEES:

Commissioner Noblin reported the Large Scale Development Committee met to review the plans for the three items on the agenda as follows:

Approve the Large Scale Development Plan for **Gateway of Persimmon Apartments** and placed on the consent agenda, subject to the following conditions:

- **Approved** the waiver to Sec. 14-260(F) Distance between curb cuts
- **Denied** the waiver to the Drainage Criteria Manual, Chap. 4, Sec. 3.3.1.3
- **Approved** waiver to Drainage Criteria Manual, Chap. 4, Sec. 3.3.1.6
- Recommend the developer pay a fee in-lieu for construction of the future 10' trail along Persimmon Street if required

Tabled the Hood & Fender Large Scale Development.

Approve and place on the consent agenda the **Hunt 6-Story Office Building** with the following conditions:

- **Approved** the waiver from the minimum required loading spaces as shown in Section 14-709(i) The site plan has met all other vehicle parking requirements stated in Sec. 14-709(h) and contingent of all item listed on the engineers report be met

Motion by Noblin, second by Myers to place the three actions on the consent agenda.

Voice vote: Unanimous- Yes. ***Motion carried.***

CONSENT AGENDA:
Approved.

Motion by Noblin, second by Myers to approve the Consent Agenda.

Roll Call: Unanimous - Yes. ***Motion carried.***

OLD BUSINESS:

None.

PUBLIC HEARINGS:

(Agenda Item #1)

A request by Reinboth Lynch LLC to rezone 718-728 N 2nd Street from C-2 (Highway Commercial) to IA (Industrial Arts) zoning district

Hannah Cicioni, representing the property owner, requested the rezoning to the IA (Industrial Arts) zone.

Cicioni said this rezone would expand the DRDC up to the northern boundary of the downtown district on a somewhat blighted piece of property.

The Public Hearing was opened with no comments from anyone in the audience either for or against the rezoning request.

The Public Hearing was declared closed.

Commissioner Myers said this is the type of zoning that we would like to see in this area and fits in with the new downtown zoning and comprehensive growth map.

Approved.

Motion by Myers, second by Schmelzle to recommend approval to the city council the rezoning from C-2 to IA as requested. Roll call: Unanimous – Yes. ***Motion carried.***

Agenda Item #2)

A request by Reinboth Lynch LLC to rezone 203 W Wood and 710 N 2nd streets from C-2 (Highway Commercial) to IA (Industrial Arts) zoning

Hannah Cicioni, representing the property owner, requested the rezoning to the IA (Industrial Arts) zone.

Cicioni said this is same owner and this property has recently been renovated.

The Public Hearing was opened with no comments from anyone in the audience either for or against the rezoning request.

The Public Hearing was declared closed.

Approved.

Motion by Schmelzle, second by Myers to recommend approval to the city council the rezoning from C-2 to IA as requested. Roll call: Unanimous – Yes. ***Motion carried.***

(Agenda Item #3)

A request by Equity Storage, LLC to rezone 5 acres at the NE Corner of S. Bellview Rd. and W. Ajax Ave. from a mix of R-O (Residential Office), C-2 (Highway Commercial) and PUD zoning, to the C-2 (Highway Commercial) zoning district.

Bill Watkins, representing the developer, presented the rezoning request and said the rezoning request is unique and should be amended to the C-2/C-U.

Watkins explained this property was part of a PUD that never developed and the proposed use would allow for individual ownership of the storage units, which would require the C-U part of the zoning.

Watkins said his client wants to sell individual units which would require the C-2/C-U zoning.

The Public Hearing was opened with no comments from anyone in the audience either for or against the rezoning request.

The Public Hearing was declared closed.

Amended rezoning request approved.

Motion by Myers, second by Ferguson to amend the rezoning request from R-O and C-2 to C-2/C-U as requested.

Voice vote: Unanimous – Yes. ***Motion carried.***

Motion by Myers, second by Schmelzle to recommend approval to the city council the rezoning from R-O and C-2 to C-2/C-U as amended and requested.

Roll call: Unanimous – Yes. ***Motion carried.***

Chair Spann suggested considering Agenda Item #5 which goes along with the previous request now rather than later in the meeting.

(Agenda Item #5)

A request by Equity Storage, LLC for a Conditional Use to allow warehousing and storage on 5 acres at the NE Corner of S. Bellview Rd. and W. Ajax Ave. in the C-2 (Highway Commercial) zoning district.

Bill Watkins presented the request for the conditional use permit for warehousing and storage.

Watkins said the storage facility will not be the normal long building with access on both sides, but will be built as two large buildings with interior corridors and all access would be from the towered part of the building. The city has recommended that all sides of the structure that are visible from the street should be masonry, which his client has agreed to do.

The Public Hearing was opened with no comments from anyone in the audience either for or against the conditional use permit request.

The Public Hearing was declared closed.

Approved.

Motion by Myers, second by Malone to approve the conditional use permit as requested with the stipulation that masonry be on three sides of the building that are visible from the street, the south, west and east sides and that no outdoor storage would be allowed.

Voice vote: Unanimous- Yes. ***Motion carried.***

(Agenda Item #4)

A request by Mill Creek Manor, LLC to rezone 2110 S. 30th Street and 3035 W. Green Acres Rd. from A-1 (Agricultural) to R-MF (Residential Multifamily) zoning.

Bill Watkins, representing his client Mill Creek Manor, presented the rezoning request.

Watkins said his client is also the owner of Jamestown Rehab and wants to build a convalescence care facility with the access off of Hampton Road. There will be no access from Green Acres Road only a locked access for city agencies and emergency vehicles.

Watkins said the initial request was to rezone 10 acres, but because of unfavorable report from planning staff sat down with them and developed an amenities agreement which would offer the neighbors some protection and leave the southernmost 100-ft. zoned as A-1. Other items included on the amenities

agreement is the RMF zoning which could be apartments, so the use would be restricted to convalescence care, defined as assisted living or rehabilitation nursing facility; the boundary closest to the residents will be screened with evergreen trees, shrubs and bushes to block the car lights; no access on Green Acres Road with only a locked access for city agencies and emergency vehicles; a light study will be done to ensure that the design of the lights will not bleed off on the neighboring residents; a lot combination will be required to show the two lots as one to comply with city requirements.

Watkins said this development may also allow the neighboring residents who are on wells to have access to water and sewer which they didn't have previously.

The Public Hearing was opened

Kent Verge, 3045 W. Green Acres Road spoke in opposition saying he has plans of operating a small farm on his property which is zoned A-1 and fears that this development will prohibit that due to the possibility of animal smells, bee keeping and having chickens. The drainage for the area has almost flooded his house in the past and he fears that any development will only cause more potential flooding. The well could be affected by additional parking at the new facility with oil, gas and other fluids leaking into the ground water. A previous request similar was requested for this property last fall and was pulled which sets a precedent that we don't want this developed as commercial or multi-family. The city's long term use for this property has been designated single family- low density. "We are planning a six-figure remodel of our home and it has been on hold since December 2017. I don't know that I want to make that investment into a house that will be across the street from a convalescence

home. When we were looking for property we visited this property with the realtor and saw the horses running with the steam coming off of their backs and that is why we bought it, not because there is a convalescence home across the street. The current ridgeline with the trees that screens the convalescence home, but once it moves to this side of the ridgeline it will affect my property values.”

Anthony Cardarelli, 2930 W. Green Acres Road, said he lives closest to Jamestown, and it sounds that some of his concerns have been addressed in the amenity agreement, but there things that were supposed to have been addressed from the previous development that didn't happen such as screening. “I get headlights shining in my house now. The runoff is a serious issue. Is there any kind of assurance that what is supposed to happen will happen and that they will stick to the plan? It didn't happen last time.”

Andres Arriaza, 2120 S. 30th Street, said, “In addition the points that Mr. Verge mentioned, the topography of the layout except for the 100-ft. at the bottom which is the only flat spot and from there goes up. This will affect the drainage, light pollution, and noise and I don't see how the screening will be effective. The road conditions will not support emergency vehicles and is not adequate for the weight of emergency vehicles. The road was chip and sealed last year, but was not compacted and will not hold up.”

Karen Arriaza, 2120 S. 30th Street, spoke against the rezoning and said, “The property has two sides and the property closest to Jamestown makes sense to be rezoned, but the property along Green Acres does not. We bought out property sixteen years ago excited about the opportunity and possibility to raise guinea fowl, cattle and horses. Our

expectation was that the area would remain mostly low density which would be more conducive to agricultural. The rezone to commercial would not be appropriate and the 100-ft. buffer out of 10-acres would not be adequate between residential multifamily and agricultural zones. The last time this came up to be rezoned, it was turned down because it didn't fit it with the low density residential. When Jamestown was built, the neighbors were promised a fence and screening and it didn't happen. There is no fence or screening and we have no reason to believe that it will happen this time. What will happen if this changes hands? It does not have to continue to be a convalescence facility then they would have access to Green Acres Road, which cannot handle traffic. When we residents along Green Acres Road are having a load of dirt hauled in we have to consider what it will do to the road. It's a one lane road and anything heavy causes ruts."

Mike Martinelli, 4503 Hillside Drive, said he lived in the Highland Knolls Subdivision since 2000, but because of the recent development of offices in that area has just bought property that touches Capps Road. "We thought this opportunity would be more single family type housing and now we're facing the same thing."

David Bergquist, 2805 Capps Road, said he had been a resident for 24 years. "When the city took us in from the county, they promised us water and sewer, which I still do not have. My concern is I like the acreages out there. I like the openness. I'm afraid the new downtown is slowing beginning to encroach on to that big area which is now small farm-ettes. I'd like to not see it fall that way to big developments."

Bob Kossieck, 2900 Capps Road, said he agrees with everything that has been said previously. "When it rains, there is more

than two feet of water that falls on that property. There is no way for emergency equipment to get down that road or to turn around. There are no sidewalks and we walk our dogs or horses on the road. There are no speed limit signs. That road is 18-ft. wide and two cars can pass each other, but carefully. When we bought the property in 2013 we bought it because it was quiet. I think it is wrong for a company to come in because there are two or three empty lots to try to rezone. There are twelve to fourteen families along this road and we don't want to see the changes."

Chair Spann asked for a show of hands of those attending the meeting who are opposed to the rezoning.

12 or so hands were raised in opposition.

Maria Cardarelli, 2930 W. Green Acres Road, spoke against the rezoning and said "Our security is important. The assurances that Jamestown promises were supposed protect us. We consistently get litter from Jamestown and it's not paper, it is biohazardous waste, which is an issue. Their dumpster backs up to our property. This is a deep concern of ours."

There were not comments from anyone in the audience in favor of the rezoning request.

Watkins responded to the comments saying that the amenity agreement covers most of the concerns that were mentioned.

Traditionally Rogers uses the A-1 zone as a holding zone until the property is developed. Staff would have to answer, is it appropriate for the presence of A-1 to offer that kind of control? The drainage comes from other areas besides this property and this will be an opportunity for the drainage to be addressed and managed according to the city's drainage requirements which will be reviewed during

the large scale development process. City water will be available. The previous request was a multifamily rezone and had access from Green Acres Road, which was denied. This request is for a single-story convalescence facility and screening is included in the amenity agreement. As noted previously, Harvard did a nationwide study to determine if multifamily zoning adversely affects property values, which it found, did not. In Rogers, there are many instances of convalescence homes right next to single family residential, so it is not an unusual or unique circumstance. A convalescence homes is typically a less intense use because the patients there will be within that facility. The parking will be off Hampton Road. The use will be quiet and unobtrusive. This would be one of the least obtrusive uses. The use of Green Acres Road condition for emergency equipment was discussed, but emergency personnel and vehicles have to use it as it is now. The area closest to Green Acres will remain A-1 as a buffer which is 15% of the 10 acres and may be used for drainage. The comments regarding the previous owner who built Jamestown and the things that were promised but not done will not happen with his client because the proposed amenity agreement will address those things. I understand that change is tough and people don't want development next to them, but Rogers is growing. This property is developed all around it and this use is the least intrusive. The amenity agreement will address the concerns of the neighbors and the best that the neighbors could hope for.

Commissioner Schmelzle asked Staff Attorney Jennifer Waymack "Is there a mechanism to rezone, but with the use "only for convalescence"?"

Waymack responded, "No, there is not. That would be conditional rezoning. The

amenities agreement is here, but it is part of the density process and not part of the zoning process. I don't know whether or not they will be asking for additional density. This is a good faith effort by the developer to attempt to show you that they willing to do their best to comply with the needs of the community. That being said, if it is rezoned to RMF then it is rezoned to RMF and a rezone to RMF conditioned upon the agreement that this developer has made is enforceable. I have questions as well. There is a very good change that we could be challenged on that by the next owner of the land.”

Commissioner Myers asked, “Can we make as part of the conditions, that if the project fails, the owner rezones back to A-1?”

Commissioners discussed whether the amenity agreement is enforceable in that in the past the amenity agreement was a way to get increase density for a project.

Planning Administrator Lori Ericson reminded Waymack who announced to the commission that the rezoning to RMF would allow the base density which is 6 units per acre.

Waymack said if another development came in and wanted a greater density, they would have to come in and provide another amenity agreement. This amenity agreement would apply to this developer and the developer would be held to this.

Chair Spann said the amenity agreement shows a spirit of cooperation by the developer but could be a part of the large scale development process and should be administered.

Watkins agreed with Spann and said if this was an apartment complex the amenities

agreement would be the way to get a greater density. In this case, the developer is willing to comply with the amenities agreement to work with the city staff and neighbors as an acceptable condition.

Noblin asked Watkins, “Is your client willing to bind this?”

Watkins responded, “I just asked my client and he is willing to bind this, however a covenant will not work because he doesn’t own both pieces of property. Approval of this rezoning is contingent on the sale.”

Commissioner Myers said, “Then we’re back to the original question, is the RMF zone the highest and best use?”

Watkins said he client will commit to it being a convalescence/nursing home.

Noblin asked if the amenities agreement is filed with the county, would it become a pseudo-covenant?

Waymack said her best guess is that if the amenity agreements are executed by this developer, it is enforceable.

Spann said if the amenity agreement is pasted on the front of the large scale development plan as a condition of approve it, and then we can enforce it.

Noblin said that covenants would solve the problem, but that is not the situation now.

Spann pointed out for the benefit of the audience, that the A-1 zone is the “stem-cell supply” for development and growth. We consider A-1 as single family because that is what it is. This planning commission as a body looks at the comprehensive growth plan, looks at what is projected, what is appropriate and rely on a graduated scale for

density. We're dealing with a tract that is single family with no multifamily around it, but Mr. Watkins' client wants the RMF. Also, we don't control drainage; our engineering department reviews the required drainage study for each project to determine that no additional runoff is allowed on adjacent properties than what existed before. It might be held in a detention basin and released slower, but it is not adding to the flooding problem and it may actually reduce some of the problems.

Watkins said the comprehensive growth map shows this area to be low density. The RMF zone allows for 6 units per acres which by city code is considered low density.

Commissioner Myers asked Watkins, "Bill, is Green Acres and Capps Road private or public roads?"

Watkins responded, "Public."

Ericson explained when this area was annexed into the city, those streets existed and those streets were annexed as public road.

Spann asked how much elevation falls from north to south?

Watkins said the engineer estimates 20 to 30 feet.

Commissioner Myers noted this and other issues will be a part of the large scale development plan and the zoning is the issue now.

Myers said we don't have the infrastructure of the street back there to use it as a residential development. It is not a bad request with the 100-ft of buffering, screening and topography. The economics because of the topography will dictate the

development to be to the north rather than the south. “I don’t find this to be a bad request and think it will fit in well.”

Approved.

Motion by Myers, second by Ferguson to recommend approval to the city council the rezoning with the attached amenities agreement to rezone from A-1 to RMF as requested.

Roll call: Unanimous – Yes. **Motion carried.**

(Agenda Item #6)

A request by David Carl Bayham for a Conditional Use to allow warehousing and storage at 2408 W New Hope Road in the A-1 (Agricultural) zoning.

David Bayham requested the conditional use for boat and RV storage on the back half of the property behind his existing residence.

Bayham said the units would be covered and the access to the units would be a driveway on the west side of the property.

Commissioners reviewed a drawing provided by Bayham and distances from New Hope Road.

Commissioner Myers asked Bayham if he was going to use gravel or a solid surface paving? You know that if you are going to to use gravel, then you’ll be required to have solid screening from the public view.

Bayham responded they would probably use gravel.

Ericson explained the Planning Commission would determine whether the solid screening would be required just to the front of the project or on the sides also.

Spann noted this type of use seems out of place. Typically we want to see this type of use in an industrial area or some zone other than in the middle of residential.

There were not comments from anyone in the audience in favor of the conditional use permit request.

Greg Brue, 1901 S. 26th Street, representing First Presbyterian Church of Rogers, said the church would not like to see more traffic adjacent to the soccer fields in consideration of the kids that use the soccer fields, nor the open storage.

The Public Hearing was declared closed.

Commissioners asked about lighting.

Bayham said each unit would have a security light directly above the door.

Bayham provided a photo of the proposed units and a photo showing the property as it is now which was passed around for the commissioner to review.

Denied.

Motion by Noblin, second by Malone to deny the request.

Voice vote: Unanimous – Yes. ***Motion carried.***

(Agenda Item #7)

A request by Discount Tire for a Conditional Use to allow vehicle repair and installation at 2401 W Pleasant Grove Road in the C2-CU (Highway Commercial, Condominium Use) zoning district

Mr. Vasquez, representing Discount Tire, requested the conditional use permit to allow vehicle repair and installation.

Vasquez said this would be the seventh store in Arkansas and the sale and installation of tires and wheels is the only thing that is done, no brake, or oil and lube work.

There were not comments from anyone in the audience in favor or against the conditional use permit request.

The Public Hearing was declared closed.

Schmelzle asked Ericson if the Firestone store is allowed to do a tire display then this business should be able to do the same.

Ericson explained that the Firestone Store is also in the C-2 zone and would be required to have a conditional use permit too. Some small display wouldn't be acted on, but a rack of tires by the road would get the city's attention.

Vasquez said the tire display at the Discount Tire is a glassed-in area on the inside of the building, so no tires would be displayed outside.

Approved.

Motion by Ferguson, second by Schmelzle to approve the conditional use permit to allow vehicle repairs and installations.

Voice vote: Unanimous – Yes. ***Motion carried.***

NEW BUSINESS:

(Agenda Item #1)

LSDP, Gateway of Persimmon Apartments, a 30-unit multifamily development on 3.99 acres at 1503 W. Persimmon St. in the RMF-10B (Residential Multifamily, 10 units per acre, rentals) zoning district

Approved on the Consent Agenda.

(Agenda Item #2)

LSDP, Hood & Fender, a 1.764-sf building at 3201 W. Pleasant Grove Road in the C-2 (Highway Commercial) zoning district.

Tabled.

(Agenda Item #3)

LSDP, Hunt 6-Story Office Building, six-story and four-story office buildings with a six-story parking garage between them at J.B. Hunt Drive and W. Northgate Road in

the C2-CU (Highway Commercial, Condominium Use) zoning district.

Approved on the Consent Agenda.

There being no further business, the meeting adjourned at 6:07 P.M.

ATTEST:

Dennis Ferguson, Secretary

APPROVED:

Don Spann, Chair